

Jeanne M. Zolezzi jzolezzi@herumcrabtree.com

May 29, 2008

## VIA EMAIL AND U.S. MAIL

Ms. Delores Brown
Department of Water Resources
Office of Environmental Compliance
Post Office Box 942836
Sacramento, California 94236

Re: <u>Notice of Preparation: Environmental Impact Report and Environmental Impact Statement for the Bay Delta Conservation Plan</u>

Dear Ms. Brown:

These comments are submitted on behalf of the Stockton East Water District on the NOP for the above referenced document.

It is very difficult to make meaningful comments on the March 17, 2008 Notice of Preparation, because the NOP does not meet the minimum requirements set forth in the CEQA Guidelines §15082(a)(1). The NOP should provide sufficient information describing the project and the potential environmental effects to allow parties to make a meaningful response. At a minimum, the information should include:

- Description of the project.
- Location of the project indicated on an attached map.
- Probable environmental affects of the project.

The March 17, 2008 NOP describes the BDCP as the Project, but at this point in time the BDCP is a planning effort. As stated in the NOP, the purpose of BDCP is to:

"secure authorizations that would allow the conservation of covered species, the restoration and protection of water supply reliability, protection of certain drinking water quality parameters, and the restoration of ecosystem health to proceed within a stable regulatory framework."

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It appears that the NOP is premature, as the project has not been identified. The NOP states that the BDCP will evaluate at least four alternative Delta conveyance strategies, but these are not identified. Because the project has not been identified, the probable environmental affects of the project cannot be identified and required by CEQA.

Nevertheless, in order to help facilitate the BDCP's future actions, we submit the following general comments:

## 1. Habitat Restoration and Enhancement Programs.

One of the types of Habitat restoration and enhancement actions that has been identified is:

Providing adequate water quality and quantity within the Delta at appropriate times to help conserve resident native fishes and improve rearing and migration habitats for salmon moving through the Delta.

Without more it is impossible to provide comments on this statement. Analysis of environmental impacts depends upon the mechanism identified to provide adequate water quality and quantity within the Delta. As an upstream water right holder, Stockton East Water District is concerned that any evaluation of water supply for the Delta must be evaluated consistent with California law, including the requirements of water right priority rules and the Watershed Protection statute (Water Code section 11460). Water users within protected areas are entitled to water to meet their demands before water may be exported from the Delta. This issue must be addressed in any EIR/EIR prepared for the BDCP.

## 2. In-Delta Water Quality.

An isolated or dual conveyance facility would drastically change water quality in the Delta. With Sacramento River water routed around the Delta the poorer quality San Joaquin River water would have a much larger influence on South Delta water quality. Evaluation of environmental impacts from any alternative must closely evaluate:

- Potential impact on water quality throughout the Delta
- How any changes in water quality would be addressed or mitigated
- The environmental impact of any required mitigation.

## 3. Water Conveyance Facilities.

The four options being evaluated appear to focus on how to decrease impacts on and increase reliability of export CVP and SWP water supplies. However, the BDCP Planning Goals as described in the planning agreement, are broader, and do not restrict the BDCP focus on export CVP and SWP water supplies, but all Delta supplies.

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For example, the BDCP Options Evaluation Report compares each of the options to *Criterion #8*, which is "Relative degree to which the Option allows covered activities to be implemented in a way that meets the goals and purposes of those activities." Criterion #8 is then described, however, in a much more limited fashion as addressing "the ability of the Options to achieve the *water supply goals of the CVP and SWP*" focusing only on CVP/SWP export water reliability, project operational flexibility, and export water quality.

CEQA requires that the evaluation of each alternative be broader. An alternative's potential environmental impacts on all aspects of the environment, and <u>all water users in</u> and upstream of the Delta must be evaluated.

At this time, because of the lack of project description and other details, it is impossible to provide additional comments.

Very truly yours,

JEANNE M. ZOLEZZI

Attorney-at-Law

JMZ:md

cc: Mr. Kevin Kauffman